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Chairperson: Ms. Chanet

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The meeting was called to order at 11.10 a.m.

Consideration of reports submitted by States parties under article 40 of the Covenant and of country situations (*continued*)

Second periodic report of Uzbekistan
(CCPR/C/UZB/2004/2)

1. *At the invitation of the Chairperson, the delegation of Uzbekistan took places at the Committee table.*

2. **Mr. Saidov** (Uzbekistan), continuing his delegation's answers to questions put by members of the Committee with regard to issues 1 to 15 on the list of issues, said that Uzbekistan was working on developing better machinery to review complaints and communications forwarded by the Committee and to respond to recommendations by the Committee in a timely manner. At present communications from the Committee were forwarded to the appropriate body in Uzbekistan, which made recommendations on measures to be taken, and information about the outcome was then sent back to the Committee. It was a new situation for authorities in Uzbekistan, and law enforcement authorities and other Government officials were slowly gaining experience in implementing the norms of the international human rights instruments, including the Covenant, to which the Government attached great importance. On the subject of violence against women, the Committee had been provided with a copy of a recent study presenting the results of a survey on domestic violence in Uzbekistan carried out by a non-governmental social research centre. In that connection the Government was collaborating with non-governmental organizations that were developing a system to assist victims of domestic violence. Media attention on the subject was also helpful in educating people.

3. Polygamy was considered a form of discrimination against women and was a crime in the Criminal Code. It had cultural roots going back before 1917. Uzbekistan had differing minimum ages for marriage for each sex, 18 years for men and 17 for women, but such differences were found in many countries. Forced juvenile marriage was a crime. Rape was treated as a most serious crime and the incidence of rape was under 1 per cent and had declined slightly. Homosexuality was a crime for men but no laws existed regarding homosexuality among women. He had not been able to obtain statistics on the incidence of homosexuality. Prohibitions against homosexuality had long-standing cultural and religious roots.

4. With regard to reducing secrecy and uncertainty surrounding capital cases, clear rules had been worked out requiring authorities to inform the next of kin of executions. On the status of the implementation of the recommendations made by the Special Rapporteur on torture after his visit to Uzbekistan in 2002, 4 of the 22 recommendations were still being reviewed, namely, those dealing with the length of pre-trial detention, the transfer of the administration of prisons from the Ministry of Internal Affairs to the Ministry of Justice, the possible closure of the Jaslyk penal colony and making the declaration provided for in article 22 of the Convention against Torture recognizing the competence of the Committee against Torture to receive communications from alleged victims of violations of the Convention. In each case the Government had found that it could not fully agree with the recommendation or felt that Uzbek society was not yet ready for the changes that accepting the recommendation would entail. All branches of Government in Uzbekistan condemned torture, but attempts to insist that a head of State, in particular the President of Uzbekistan should make a public statement at an international gathering expressing that State's rejection of torture represented a distortion of the recommendations by the Special Rapporteur and infringed on the sovereignty of the Government of Uzbekistan.

5. **Mr. Sharafutdinov** (Uzbekistan) said that, under article 235 of the Criminal Code, any person, including law enforcement officials and members of the judiciary, resorting to torture was criminally responsible. It was true that the language in the article did not fully match the text of article 1 of the Convention against Torture but the Supreme Court had prepared definitions and recommendations on torture so as to enable officials to apply the Government instructions against torture in practice. Members of the Committee had referred to several cases in Uzbekistan where defendants' procedural rights had allegedly not been protected, in particular the right to counsel. Those cases had been investigated by non-governmental experts and, where violations had been proved, law enforcement officials had been disciplined. About a dozen officials of the Ministry of Internal Affairs had

been prosecuted for abuse of power and torture; such action would have been unimaginable 10 years earlier. Independent investigation had proved to be an important means of preventing torture. Cases in which detainees had died while in detention or where allegations had been made of illegal means of investigation had been investigated with the help of experts from North America and Europe. Recently, the office of the Ombudsman had agreed to participate in such investigations as well.

6. **Mr. Saidov** (Uzbekistan) said that during the past two years 544 officials from law enforcement agencies, including the Procurator's Office and the Ministry of Internal Affairs, had been prosecuted for torture. In principle, any departure from the law, torture in particular, by enforcement officials was not tolerated. Cases were investigated and widely publicized in the media; perpetrators were severely punished. The Government was working with non-governmental organizations on projects to increase public control over law enforcement.

7. Following the Special Rapporteur's recommendations (E/CN.4/2003/68/Add.2, para. 8) and the measures described in paragraphs 24 and 132 of Uzbekistan's report (CCPR/C/UZB/2004/2), the Government had decided to amend the Code of Criminal Procedure to include habeas corpus. Given the lengthy legislative steps involved, no specific date could be given for its introduction.

8. He agreed there was a considerable gap between law and practice and from the date of adoption of legislation until the law entered into effect, but the problem was not unique to Uzbekistan. Nonetheless, his Government was now focusing on the effective application of civil and political rights.

9. In a state of emergency, any derogation from or limitation to the articles of the Covenant cited in its article 4, paragraph 2, was inadmissible, and Uzbekistan consistently respected the principle of non-discrimination.

10. Uzbekistan currently dealt with extradition under international law via bilateral treaties. It might in future have to regulate the practice at the national level.

11. The prison diet's basic daily caloric content was 2,550 calories per 24-hour period. Doctors could recommend larger rations. Funds allocated to the different penal institutions varied, but there had been an overall increase of between 150 and 300 per cent following the amendment of the Criminal Code.

12. In 2004 the Government had conducted a survey and found that 78 per cent of Uzbeks opposed the abolition of the death penalty. Before it could be abolished, the Government had to prepare public opinion by educating the population and create suitable conditions for long-term sentences. Preparations could take from two to three years.

13. Sharia law had been abolished in 1921; it was not the effective law of the nation. Uzbekistan was not an Islamic State, but a secular State with an Islamic influence.

14. **Mr. Sharafutdinov** (Uzbekistan) said that if the sentence for a particular offence was reduced by law, the reduction entered into effect for persons convicted of that offence. An overall reduction in periods of detention was more difficult to achieve; procedures had to be amended and the judiciary had to be sensitized.

15. The amount of time required for a detainee to have access to a lawyer had been reduced from within 24 hours to within one to two hours from the time of arrest.

16. The Procurator of each region was responsible for conditions in pre-trial detention centres and penal colonies, including regular and solitary confinement cells. A representative of the Ombudsman would in future monitor living conditions and human rights in the colonies.

17. **The Chairperson** invited the delegation of Uzbekistan to address questions 15 to 28 on the list of issues.

Freedom of movement and right to leave and to return to one's country (*article 12 of the Covenant*)

18. **Mr. Saidov** (Uzbekistan), replying to question 15, said that a law passed in 1996 permitted Uzbek citizens to travel abroad; within two years the number of trips would no longer be restricted.

No expulsion of aliens without judicial guarantees (*article 13 of the Covenant*)

19. **Mr. Saidov** (Uzbekistan), replying to question 16, said that counter-terrorism legislation in force provided for the coordination of the work of the

relevant bodies under the National Security Service (SNB) and for dealing with individuals considered a threat to national security. Conditions surrounding expulsion, extradition or return of aliens were dealt with in paragraphs 163 and 164 of the report.

Right to a fair trial (article 14 of the Covenant)

20. **Mr. Saidov** (Uzbekistan), replying to question 17, said that judges were currently appointed for five-year terms. The discussion provoked by paragraph 14 of the Committee's concluding observations at its seventy-first session (CCPR/CO/71/UZB) had yielded three view-points: the five-year term was the same as that of Parliament and other bodies and should therefore be retained; terms should be increased to ten years; and judges should be appointed for life to reduce bureaucratic delays. Judicial independence was not merely a matter of length of the term of appointment; it was guaranteed by other measures, as set out in paragraph 176 of the report.

21. **Mr. Sharafutdinov** (Uzbekistan), replying to question 18, agreed that procurators and lawyers did not have the same powers. However, the scope of procuratorial powers was regulated by laws. Future reforms would provide for a review of the system and the granting of more powers to the defence.

22. **Mr. Saidov** (Uzbekistan) said that the Criminal Code and the Code of Criminal Procedure clearly set out the guarantees enjoyed by persons suspected of terrorist offences, including the need to inform them of the charges and any evidence against them. They were, inter alia, entitled to legal representation, to the use of their mother tongue and to the services of an interpreter and must be interrogated no later than 24 hours after their arrest. Uzbekistan had unconditionally ratified the 12 basic international treaties on terrorism. Its Act on Combating Terrorism was based on international standards, the experiences of other States and its own experience. The law clearly defined terrorism and set out the basic principles and priorities for combating and preventing it as well as the international cooperation needed in that regard.

23. **Mr. Sharafutdinov** (Uzbekistan), responding to the question on the use of torture to obtain confessions, noted that the presumption of innocence was enshrined in the Constitution. Any allegations of the use of torture to extract information were investigated. With a view to ensuring transparency in the work of law enforcement agencies, the Government had begun to systematically brief international human rights organizations and representatives of the diplomatic corps accredited to the country on various criminal cases and inform them of any evidence presented against suspects, especially in cases of allegations of torture. While work with respect to transparency was in the early stages, the authorities were confident that with the experience and knowledge gained from international standards and from the five strategic ways identified of eliminating torture, they would be able to strike the appropriate balance between combating crime and guaranteeing respect for human rights.

24. **Mr. Gaziev** (Uzbekistan) said that there were no restrictions on the holding of religious services. More than 2,000 religious organizations had been registered by the Ministry of Justice, which, together with the Government's committee on religious affairs, had oversight over such bodies. The activities of such organizations permitted under the law ranged from the dissemination of religious literature and organization of pilgrimages to the establishment of import/export ventures. The State did not control or regulate religious practices nor did it interfere with religious organizations and their faith.

25. The legislation of Uzbekistan enshrined the right of citizens to form political parties, trade unions and other organizations and to take part in mass movements. The law on political parties had been amended and improved four times since 1999. A new law had been enacted on the financing of political parties; it covered issues such as the collection of funds and the expenditure and sources of property of political parties. Those efforts were mainly aimed at creating a genuine democratic machinery for the functioning of political parties. To date, the Ministry of Justice had registered five political parties.

26. The Ministry of Justice was the main Government agency responsible for the registration, in accordance with well-defined procedures, of non-governmental organizations, whose number had increased two-fold over the past five years, demonstrating that there were no problems in that regard. A total of 5,276 non-profit-making NGOs had been registered and were operating in the country. Furthermore, a non-governmental organization institute for studying civil society had been established which pursued a policy of social partnership with NGOs and encouraged the

development of civil-society and mass-media institutions.

27. **Mr. Saidov** (Uzbekistan), taking up the question on freedom of religion, stressed that since independence there had been no inter-religious conflict in Uzbekistan, which guaranteed full equality between religions. The Law on Freedom of Conscience and Religious Organization was currently under review with a view to further strengthening such guarantees.

28. He questioned the figure, cited in paragraph 23 of the list of issues, of 6,000 persons imprisoned for their religious beliefs, asking where it had originated. Only 80 persons were currently being held for expressing their religious beliefs, and their offence lay in their having done so by carrying out extremist activities in the territory. Of the 5,000 persons who had been detained because of their religious beliefs, the great majority had been released, mostly under an amnesty.

29. Concerning freedom of expression, journalists were not prosecuted in his country, except where they broke the law, as in the case of a newspaper editor who had been convicted the previous year for a financial crime. Following the review of Uzbekistan's report in 2001, a broad debate had been set in motion between State bodies, the press and civil society, and the text of the Committee's concluding remarks had been widely disseminated throughout the country and published in the journals of the National Centre for Human Rights and of the Uzbek Bar Association.

30. **Mr. Castillero Hoy s** welcomed the institutions set up to promote human rights in Uzbekistan, in particular the Centre for Human Rights and the Ombudsman, but wished to have detailed information about how they functioned and their resources, particularly since it was reported that the latter had been prevented from investigating a case involving detention and interrogation without due process. What means of dialogue were actually available? He had also learned with concern that applications to register submitted by human rights bodies had been turned down on the grounds of article 43 of the Uzbek Constitution, which stipulated that it was the responsibility of the State to safeguard the rights and freedoms of citizens. He wished to know therefore what the relationship was between the State and human rights organizations.

31. He would also appreciate information about the circumstances in which death sentences were commuted; the measures taken to combat corruption and ensure the right to a fair trial; and the possibilities of formation of new political parties. He wondered in particular, with reference to paragraph 297 of Uzbekistan's second periodic report, how the restrictions on the registration of political parties squared with the requirements of the Covenant.

32. **Mr. Wieruszewski** alluded to specific cases of violations of Covenant-protected rights reported in Uzbekistan on which he wished to have an official answer. He would also appreciate information on measures to strengthen the judiciary, in particular by giving judges life tenure, which was an important element of their independence in post-Communist countries, as well as by ensuring reasonable salaries for them. Noting that in the current situation judges had only five years' tenure, he requested full information on the criteria applied for their re-election. Lastly, he questioned the compatibility with the Covenant of the law on the protection of State secrets, understood as information whose divulgation was considered hostile or harmful to the State. Restrictions thus placed on media and press freedom created a situation that was not conducive to the sharing of information.

33. **Ms. Wedgwood** stressed the need for transparency in respect of criminological data, regretting that that no information had been provided about the number or dates of death penalties carried out. Referring to question 15 in the list of issues, she cited the case of two human rights activists who had been denied permission to attend a seminar on human rights in Bishkek in 2004 and asked for clarification regarding the prohibition against leaving the country placed on persons convicted of the crime of homosexuality. Moreover, while noting the Government's positive stance on religious freedom, she considered that denial of the right to proselytize was not consistent with the provisions of the Covenant. She also wondered whether concerns about religious extremism justified the reluctance to permit religious dress in educational institutions and how the line was drawn between what was seen as incitement to violence and the espousal of strict theological views.

34. **Sir Nigel Rodley**, after noting that the Human Rights Committee could not require heads of State to take any particular action, said there had been no response so far to recommendation (k) of the Special Rapporteur on Torture, to the effect that confessions under certain conditions should not be admissible as

evidence and that there should be video and audio tapings of interrogations. He wished to know what if anything was being done to give effect to that recommendation. He also requested clarification regarding reports that applications for registration made by certain civil society groups had been refused on constitutional grounds.

The meeting rose at 1 p.m.